

PART 3

REMARKS

Claims 1 - 6 are now pending in this application. Upon entering the foregoing amendments, claims 1 - 9 will be pending in this application.

Support for amendments to claim 1 can be found as follows: - "sound transmission" and "water proof container", eg. page 3, lines 12 to 13; storage means in container, page 3, lines 22 to 23; "power supply" page 3, lines 22 to 23, and page 4, lines 13 to 17. Support for new claim 7, can be found on page 4, lines 17 to 19. Support for new claim 8, can be found on eg., page 4, lines 30 to 31. Support for new claim 9, can be found on eg., page 4, lines 29 to 30 and page 5, lines 24 to 25.

The Applicant has amended the claims in order to more clearly and distinctly define the claimed subject matter. The Applicant has added new claim 7 to 9 in order to claim additional embodiments of the present invention. It is submitted that the amendments are fully supported by the specification as originally filed, and do not add new subject matter. The Applicant notes that these amendments were not made for patentability reasons.

PRIORITY

The Applicant encloses a certified copy of the Priority application, Canadian Patent Application No. 2,325,291, as required by 35 U.S.C. 119(b), as Part 6.

DRAWINGS

The Applicant has amended page 3, line 19 of the Description to replace "body 16" with - body 12 -, in order to correct a typographical error in the reference numeral. The Applicant notes that previous references in the same paragraph, on page 3 of the Description, identify the "container body" with reference numeral 12. With the foregoing amendment, it is submitted that the Examiner's objection to the drawings under 37 C.F.R. 1.84(p)(4) has been overcome.

Claim Rejections - 35 U.S.C. § 103

The Examiner has rejected claims 1 to 6 under 35 U.S.C. 103(a) as being unpatentable over cited U.S. Patent No. 5,259,809 - Rainey, Jr. in view of U.S. Patent No. 5,177,891 - Holt. The Applicant respectfully traverses this ground of objection.

The mere fact that patents can be combined or modified does not render the resultant combination obvious, unless the prior art also provides a motivation to combine the teaching of the patents. Rainey, Jr. teaches the use of light to attract bait to a trap. However, light has the reverse effect on most crustaceans, and therefore a worker skilled in the art would not have been prompted to combine the teaching of Rainey, Jr. with the apparatus of Holt.

In addition, Holt is using the sound produced by crustaceans to attract game fish. Therefore, one could not combine the apparatus or method of Holt with that of Rainey, Jr. to attract marine crustaceans.

Further, neither Rainey, Jr. nor Holt teach the use of underwater sound to attract crustaceans. In Rainey, Jr., the shrimp are attracted because the presence of bait in the form of plankton that is, in turn, attracted to the light. In Holt, underwater acoustical signals, produced by various forms of fish bait, such as crustaceans (see, for example, column 3, lines 3 to 4), are used to attract game fish. Accordingly, neither of the cited patents teach or suggest the use of underwater sound to attract marine crustaceans.

In addition, although Holt suggests the use of "behavior altering sound" to attract game fish, all examples disclosed make use of sound produced by fish bait. Holt does not teach or suggest the use of a sound that simulates an animal's preferred habitat to attract that animal.

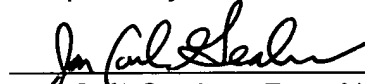
Accordingly, the Applicant respectfully submits that the cited patents neither teach nor disclose the subject matter of the present invention, and that one skilled in the art or science would not be motivated by the cited patents, taken either alone, or in combination,

to arrive at the subject matter of the present invention. Withdrawal of this ground of objection is respectfully requested.

The Applicant notes that none of the rest of the cited patents that have been made of record, but not relied upon by the Examiner, teach the use of sound to attract marine crustaceans.

It is respectfully submitted that the subject application is in condition for allowance, and any early allowance of this application is respectfully requested.

Respectfully submitted,



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PART 4

Container 10 is manufactured from water-proof, high impact plastic to enhance its durability and to minimize the weight of the apparatus. Container 10 may be parallelepiped-shaped as illustrated in Figs. 1 and 2 or any other suitable shape. Container 10 is sized to be sufficiently small to conveniently fit through the hatch of the lobster trap and sufficiently large to house the required components. Lid 14 is removably fastened to container body 12 by stainless steel screws 16 or other suitable fastening means such that lid 14 can be either opened or removed from container body 16. An "O" ring (not shown) may be used to form a water tight seal between lid 14 and container body [16] 12. Alternatively, lid 14 may be heat sealed to container body 12. Stainless steel contact points 18 are disposed on the exterior surface of one side of container 10.

PART 5

1. An apparatus for attracting marine crustaceans to a desired location, comprising:
 - (a) a waterproof container having an exterior surface;
 - (b) [(a)] a storage means containing a recorded sound that simulates a
[recording of the] background sound present in [of] a preferred habitat
of said marine crustacean, which storage means is housed in the
container; [and]
 - (c) [(b)] a sound transmission means for transmitting said recorded sound
[recording] from said desired location, which sound transmission
means are housed in the container; and
 - (d) a power supply that is housed in the container.

4. A method of attracting marine crustaceans to a desired location comprising emitting
from said location a recorded sound that simulates a [recording of the] background sound
present in a [of its] preferred habitat of said marine crustacean.